

9 FAM PART IV Appendix P, 200 EN-TITLEMENT TO STATUS

9 FAM PART IV Appendix P, 201 "B-1" (VISITOR FOR BUSINESS) STATUS

(TL:VISA-123; 9-8-95)

a. The FTA provisions do not modify the "B-1" classification requirements (including but not limited to requirements regarding the source of remuneration) in any fashion. All requirements of this classification remain the same worldwide.

b. All Canadian nationals already benefit from the regulatory waiver of the visa requirement [see 9 FAM 41.2 (a)] for entry into the United States as nonimmigrants, including those whose purpose of entry would fall under the provisions of INA 101(a)(15)(B) as visitors for business. Although it might thus appear that the FTA would have no effect on such visitors, the FTA does in fact simplify establishing that status by including a representative list of "business visitor" occupations/activities.

c. Schedule 1 to Annex 1502.1 of the FTA (shown as 9 FAM PART IV Appendix P, Exhibit I to this appendix) lists these occupations. It is exemplary only, not exclusive, and does not preclude the entry of persons engaged in other business activities/occupations which also meet the usual requirements for B-1 status.

d. A citizen of Canada seeking temporary entry who meets existing requirements under INA 101(a)(15)(B) shall be admitted upon presentation of proof of Canadian citizenship, a description of the purpose of entry, and evidence demonstrating that the alien is engaged, if applicable, in one of the occupations or professions set forth in 9 FAM PART IV Appendix P, Exhibit I to this section.

9 FAM PART IV Appendix P, 202 "E-1/E-2" (TREATY TRADER/INVESTOR) VISAS

(TL:VISA-123; 9-8-95)

a. Chapter 15 of the FTA serves in lieu of a Friendship, Commerce and Navigation treaty and grants Canadian citizens treaty trader and treaty investor status. Although Canadian nationals are generally exempt from the

visa requirement, it was recognized that the "E" visa classification is extremely technical and sometimes quite complex. This could well complicate and delay port-of-entry adjudication of Canadians seeking admission under INA 101(a)(15)(E).

b. State Department regulations have therefore been amended to remove the visa exemption granted to Canadians with respect to those who seek to enter the United States as a treaty trader/investor. Thus, a Canadian citizen who seeks to enter the United States under INA 101(a)(15)(E) must apply for an "E" visa at a U.S. Consulate. [See 9 FAM 41.51 N4 and 9 FAM 41.51 N5 .]

9 FAM PART IV Appendix P, 203 "L" (INTRACOMPANY TRANSFEREE) STATUS

(TL:VISA-123; 9-8-95)

a. The FTA made no substantive changes concerning the "L" visa classification. INS, agreed, however, to initiate a procedural change by adjudicating individual "L" petitions of Canadian citizens at certain ports of entry.

b. A U.S. or foreign employer seeking to classify a citizen of Canada as an intracompany transferee may file an individual petition in duplicate on Form I-129L in conjunction with the application for admission of the Canadian citizen. A Canadian citizen may, at the time of intended entry, present Form I-129L, along with the supporting documentation, to an immigration officer at a Class A port of entry, a U.S. airport handling international traffic, or a U.S. pre-clearance/pre-flight station. The petitioning employer need not appear, but Form I-129L must bear the authorized signature of the petitioner.

c. Blanket petitions must still be filed in advance at the appropriate Regional Service Center. Canadian citizens entering without a visa must present the original and two copies of Form I-129S, Intracompany Transferee Certificate of Eligibility, prepared by the approved organization, as well as three copies of Form I-171C, Notice of Approval of Nonimmigrant Visa Petition.

9 FAM PART IV Appendix P, 203.1 Spouse and Children

9 FAM PART IV Appendix P, 203.1-1 Status of Accompanying or Following to Join Spouse or Child

(TL:VISA-123; 9-8-95)

a. Canadian Citizen Spouse and Unmarried Minor Child: A Canadian citizen spouse or unmarried minor child accompanying or following to join a Canadian citizen admitted under "L-1" status shall be entitled to "L" nonimmigrant status and the same length of stay as the principal alien. The Canadian citizen spouse and children shall be admitted without the requirement of a visa under the classification symbol "L-2."

b. Non-Canadian citizen spouse and unmarried minor children: A non-Canadian citizen spouse or unmarried child shall be entitled to the "L" nonimmigrant status and the same length of stay as the principal, but shall be required to present a visa upon application for admission as an L-2.

9 FAM PART IV Appendix P, 203.1-2 Employment of Spouse and Child

(TL:VISA-123; 9-8-95)

The L-2 spouse and dependent minor children, regardless of citizenship, shall not accept employment in the United States unless it is specifically authorized.

9 FAM PART IV Appendix P, 204 "FTA PROFESSIONAL" (TC) STATUS

9 FAM PART IV Appendix P, 204.1 Eligibility

(TL:VISA-123; 9-8-95)

a. The Immigration and Nationality Act was amended by section 307(b) of the FTA Implementation Act, which added section 214(e) to the INA. This section provides for the admission to the United States of Canadian citizens who are business persons entering temporarily to engage in activities at a professional level as defined by the FTA. The professions are set forth in Schedule 2 to Annex 1502.1 of the FTA and are reproduced as 9 FAM PART IV Appendix P, Exhibit II to this section.

b. The provisions of section 214(e) evolved from an initial Canadian request to facilitate and expedite movement of business persons by port-of-entry adjudication of H-1 petitions for H-1 calibre Canadians coming to the United States for temporary stays. To ensure consistency of adjudication by both parties at the port-of-entry and thus facilitate the administration of these new provisions, it was decided to list the qualifying professions.

c. INS has generally held persons practicing a profession, as defined by INA 101(a)(32), to be H-1 calibre, so a list was drawn up of all "professions" which by statute or administrative or judicial decision had been held to qualify under H-1. To inject flexibility into the system, however, it was agreed that the term "profession" should not be defined by the INA for FTA purposes, but that it be defined by the listing of professions/activities in Schedule 2.

d. As a result, this "definition" of professional was no longer subject to the limitations of INA 101(a)(32) but could include a profession or occupation which would not be H-1 calibre. In fact, two occupations (disaster relief adjusters and management consultants) were added at the last minute to this list, or "definition" of professional, which clearly do not meet H1 standards. Nonetheless, a Canadian citizen can be admitted as a FTA professional only if the person will be engaging at a professional level in one of the listed activities. This list IS all inclusive as contrasted with the B-1 list which is merely exemplary.

9 FAM PART IV Appendix P, 204.2 Documentation Required

(TL:VISA-123; 9-8-95)

a. No visa, prior petition, labor certification, or prior approval is required for a Canadian entering as a "TC." The applicant must, however, present proof of Canadian citizenship (if travelling from outside the Western Hemisphere a passport is required), and documentation sufficient to satisfy the immigration officer that the applicant seeks entry to engage in a profession or an occupation on Schedule 2 at a professional level for one or more U.S. employer(s), and meets the criteria to perform at that level.

b. Documentation may be in the form of a letter from the prospective employer in the United States or from the Canadian employer, but:

(1) It may need to be supported by licenses, diplomas, degrees, certificates, or membership in professional organizations; and,

(2) It must fully affirm the:

(a) Professional activity to be engaged in;

(b) Purpose of entry;

(c) Anticipated length of stay;

(d) Educational qualifications or appropriate credentials which demonstrate that the applicant meets professional level requirements for the occupation to be engaged in; and

- (e) Arrangements for remuneration for services to be rendered.

9 FAM PART IV Appendix P, 204.3 Admission

(TL:VISA-123; 9-8-95)

a. An FTA professional will be admitted as a "TC" for a period of one year with multiple entries. A Canadian business professional may be readmitted to the United States for the remainder of the period authorized on the Form I-94 without presentation of a letter or supporting documentation, provided the originally-intended business activities and employer(s) have not changed.

b. A business professional who is no longer in possession of a valid, unexpired Form I-94, and whose period of initial admission has not lapsed, may present alternate evidence entitling the alien to readmission as a "TC"; this may be in the form of the INS fee receipt for admission as a "TC", or a previously issued admission stamp as a "TC" in the individual's passport, and a confirming letter from the U.S. employer(s).

9 FAM PART IV Appendix P, 204.4 Extensions of Stay

(TL:VISA-123; 9-8-95)

a. A "TC" entrant may apply for extensions of stay in increments of one year. The application for extension must be accompanied by a letter from the U.S. employer(s) confirming the continued need for the applicant's services, and stating the length of additional time needed.

b. Canadian business professionals seeking to change or add a U.S. employer during the period of admission must also file an application for an extension of stay, accompanied by a letter from the new employer describing the services to be performed, the time needed to perform them, and the terms of remuneration for the services to be rendered. There is no maximum period of stay.

9 FAM PART IV Appendix P, 204.5 Spouse and Children

9 FAM PART IV Appendix P, 204.5-1 Status of Accompanying or Following to Join Spouse or Child

(TL:VISA-123; 9-8-95)

a. Canadian Citizen Spouse or Unmarried Minor Child: A Canadian citizen spouse or unmarried minor child accompanying or following to join the "TC" principal alien will be admitted under "B-2" visa classification and shall be admitted without the requirement of a visa.

b. Non-Canadian Citizen Spouse and Unmarried Minor Child: A non-Canadian spouse or child accompanying or following to join the "TC" principal alien will have to present a "B-2" visa to be admitted to the United States.

9 FAM PART IV Appendix P, 204.5-2 Admission of a "B-2" Spouse or Child of a "TC"

(TL:VISA-123; 9-8-95)

The "B-2" spouse or child of a "TC" principal alien may be admitted for a period not to exceed one year and may be granted an extension of temporary stay in increments of not more than one year, providing the principal alien is maintaining status.